(1)- D.B.C.SPECIAL APPEAL NO. 231/2007
(Maharana Pratap University of Agr. & Tec. Vs. State & Ors.)

(2)- D.B.C.SPECIAL APPEAL NO. 232/2007
(Maharana Pratap University of Agr. & Tec. Vs. State & Ors.)

19.4.2007

HON'BLE MR JUSTICE RAJESH BALIA
HON'BLE MR JUSTICE BHANWAROO KHAN

Mr. G.R. Punia, for the appellants.
Mr. M.S. Singhvi, for the respondents.
Mr. L.R. Upadhyaya, Deputy Govt. Advocate.

These two appeals arise out of common order passed in two writ petitions and raise identical issue.

The admitted facts are that the Central Government issued a notification on 11.6.2001 for allowing two advance increments to those Lecturers who had done Ph.D. while in service on recommendation of UGC, and to release such advance increments to all those Lecturers and was accepted by the State Government and sanction for such payment was issued on 11.6.2001. In pursuance of the aforesaid sanction, two advance increments were released to all the petitioners-respondents in the two appeals before us, who had done their Ph.D. while in service and it includes those who had done their Ph.D. prior to 1.1.1996. Such advance increments were granted somewhere in

October, 2001.

Thereafter, by order dated 6.5.2002 the order for advance increments was withdrawn by the State Government, on whose recommendation, the order for advance increments was issued. It was stated to be founded on letter dtd. 24.7.2002 received from UGC. Later on it clarified that those benefits were given to those teachers for whom Ph.D. Was not an essential qualification. The petitioners-respondents in each appeal had filed writ petition challenging withdrawal of advance increments inter-alia on the ground that such vested right to advance increments could not have been withdrawn by the appellants.

Learned Single Judge has found that under the sanction of the State Government the advance increments were released and same became vested rights of the petitioners and such vested right to emoluments could not have been withdrawn by subsequent clarification. Consequently, the learned Single Judge allowed the writ petition and directed restoration of advance increment in the case of the petitioner-respondents including the restoration of retiral benefit in the case of those who had retired and the arrear falling due was directed to be paid with 5 % interest.

The only contention of the learned counsel for the appellant-University is not on merit of the case but his contention is that State Government has directed to do so, therefore, he has done so.

We are of the opinion that the University being an autonomous institution and the advance increments having been paid validly under sanction issued by the State Government, but subsequently the State Government decided to withdraw the sanction, cannot affect the advance increments which were already granted under the order and had become the vested right of its recipient.

We do not find any reason to interfere in the order passed by the learned Single Judge, the appeals are dismissed.

(BHANWAROO KHAN),J. (RAJESH BALIA),J.

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